Supreme Court, U.S.
FILED

081236 MAR 31 2009

OFFICE OF THE CLERK
William K. Suter, Clerk

Case No.:

**IN THE SUPREME COURT OF THE UNITED STATES**

JOHN GIMBEL
Petitioner/Plaintiff

v.
DEPUTY FRANK VILLARREAL, DEL NORTE DISTRICT ATTORNEY, DEL NORTE SHERIFF'S DEPARTMENT, DEL NORTE SUPERIOR COURT (JUDGE FOLLET), UNNAMED ACCOMPLICE DEPUTY "DOE" TO VILLARREAL, DEL NORTE COUNTY, STATE OF CALIFORNIA

Respondents/Defendants

---

PETITION FOR WRIT OF CERTIORARI TO THE NINTH CIRCUIT COURT OF APPEALS

---

# PETITION FOR WRIT OF CERTIORARI

---

John Gimbel in pro se
225 Brevus St.
Counsel of record
Crescent City, CA 95531
707.464.5908
*in pro se as petitioner, for petitioner*

# CAN WORDS BE USED IN SELF DEFENSE?

## PARTIES TO THE PROCEEDING

### Petitioner

Petitioner is JOHN GIMBEL, an individual. There exist neither any parent corporations nor does a publicly held corporation own 10% or more of petitioner's stock.

### Respondents

Respondents are FRANK VILLARREAL, DEL NORTE DISTRICT ATTORNEY, DEL NORTE SHERIFF'S DEPARTMENT, DEL NORTE SUPERIOR COURT (FOLLET), UNNAMED ACCOMPLICE "DOE" TO VILLARREAL, DEL NORTE COUNTY, STATE OF CALIFORNIA.

Petitioner is unaware of any corporate affiliations regarding respondents.

TABLE OF CONTENTS


| Item | Page |
|---|---|
| Question presented | i |
| Parties to the proceeding | ii |
| Table of contents | iii |
| Table of authorities | iv |
| Lower court opinions to case | v |
| Jurisdiction | v |
| Constitutional and statutory provisions involved | vi |
| Introduction, reasons and request for writ | 1 |
| Statement of case | 8 |

Table of contents to appendices

Memorandum of the 9th circ. of appeals, filed January 13, 2009..... .....Pet. App. 1

Opinion of district court, filed February 29, 2008.....Pet. App. 4

Subject speech, exhibit C in declaration, docket 2, filed November 15, 2007 with complaint... .....Pet. App. 11

*Baumgartner v. United States: SUPREME COURT (1944).....pg. 3, 8, 27, 28*

*WATTS v. UNITED STATES, 394 U.S. 705, SUPREME COURT (1969).....pg. 4, 19*

*NYT v. Sullivan at 270, S. Ct. (1964).....pg. 4, 8, 28*

*Hustler v. Falwell, S. Ct. (1988)...pg.4, 8, 28*

## OPINIONS, LOWER COURTS

("Petitioner's Appendix" is hereafter "Pet. App.")

The opinion of the court of appeals (reprinted here at Pet. App. 1 ) is identified at case cv 08-15701, docket 14 in the Ninth circ. court of appeals. The original order of the district court granting defendants' motion to dismiss (Pet. App. 4) is identified at San Francisco district court, case cv 07-5816 CRB, docket 31.

## JURISDICTION

Opinion was issued in the Ninth circuit on January 13, 2009. This petition for certiorari is timely submitted, S. Ct. Rule 13. The jurisdiction of this Court to review the opinion of the Ninth circuit is invoked under 28 U.S.C. § 1254(1). The basis for the Ninth circ. appeal is/was attributable to FRAP 4(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The first amendment of speech of the United States.

***Petitioner appears before the Supreme Court on behalf of the First Amendment of the people of the entire United States...***

...if not, ultimately, the world. He expects to gain nothing less than an example that certifies, secures and redignifies the freedom of the people in their use of this amendment of speech against wanton, rampant and unfettered ("immunity powered") police prosecution, SWAT acts and other gun-backed harassments by police for speaking to a cop. Including, if you will, for merely speaking anywhere. Let me reiterate that I appear, with this unfathomable suffering of the cases which I have suffered, still only for the dignity of the people and their first

amendment--only. With the money demanded in the suit since onset, I promise this court it to be used (when/if awarded) for only first amendment foundations, relevant charities, similar, including logically and especially free monetary aid to the widest range of legal causes, including selected individual and class actions that protect the peoples' first amendment, particularly of speech. Yes, the recompense sought is high, and is gearing up for the just-stated, and to trample out a new vintage of dignity and respect for this amendment of this people. I promise this court <u>not 1 penny to be taken for myself</u>, ever, and invite that its use may be monitored forever.

"Robin hoot." I give *the hoot*--that the first amendment...Of The People...will not suffer. That the day

of infamy against me will not have unfathomably suffered in vain, as when I was felled, all taken from me, and amendments, by SWAT surprise at my residence on Apr. 8, 2004 (speech to a cop, told in federal district case cv 07-0113 SBA, protected speech), and again on June 6, 2006 (speaking to a cop, petitioner's present case). Both pure speech cases. Nothing returned here now 5 years later. I am a ruin. Everything's been tortured and knocked out of me across these years for this exposure.

Let us begin our reconnoiter, continuing our never-ending promise to fight to the end for the people and their First Amendment, armed with only our pens, against a day of infamy long ago, yet smouldering for redress...

***Baumgartner v. United States:*** ***SUPREME COURT, 1944****:* Justice Frankfurter put it succinctly in *Baumgartner v. United States, 322 U.S. 665, 673-674 (1944),* when he said that *"[o]ne of the prerogatives of American citizenship is the right to criticize public men and measures...."*

*WATTS v. UNITED STATES, 394 U.S. 705,* ***SUPREME COURT*** *(1969): "Suppression of speech as an effective police measure is an old, old device, outlawed by our Constitution."*

*NYT v. Sullivan at 270, S. Ct., (1964): ""Such criticism {to}...public officials will be subject to "vehement, caustic, and*

*sometimes unpleasantly sharp attacks...."""*

*And,*

*Hustler v. Falwell, S. Ct. (1988): {speech to public officials or public persons which is} "welcome as a bee sting..."* but well protected as this, by this.

Not knowing whether this court can already, or can decide to do so upon its own initiative, I ask it to set aside, within its own chambers, completely, any invocations of Rooker-Feldman which went forth in the lower district and its appeal court, including for any of the following reasons:

1. First amendment issues are too important for the people, for any court to ignore when "they got it

wrong"--and they most certainly did get it wrong.

2. The *subject speech in the case that generated and preceded this petitioner's plaintiff's civil case, was rammed through a Calif. "trial" court with multiple (over 3), proved instances of deputies and district attorney members committing oral and written acts of perjury under oath at the trial, and submitting false evidence. (Covered in district complaint, but quite more perfectly focused to the proofs-further in appellant's opening brief and excerpts, trailing brief, the latter two being dockets 5 and 8, Ninth circ. appeal no.: 08-15701.) These perjuring deputies and district

---

* The subject speech has never been to the U.S. Supreme Court, nor applied to be, from any other case or venue.

attorneys are respondents/defendants in petitioner's case before you here. Being speech itself, these perjuries under oath have been left unprosecuted by the lower federal court to whom they were proved and noted. Petitioner here has suffered being continuously ripped out in seconds for his own speech, talking to a cop, but these deputy and d.a. perjurers are yet fauntleroy-untouched in now about 3 years for **ostensible** acts of oral AND written perjury under oath, AND submitting false evidence at trial.

3. The right to exculpatory evidence pertaining to the subject speech was roundly denied and left uninvestigated by the Calif. court "adjudicating" the subject speech. (Again, told in district complaint, and quite more perfectly refocused in

AOB and excerpts, trailing brief, the latter two being dockets 5, 8 in Ninth circ. appeal no.: 08-15701.)

If the Supreme Court were to "overlook" such behavior by police and courts as in 2. and 3., above, petitioner would live the rest of his life with the questionable demeanor and "privilege" of saying to anyone there, "It was just my luck to live in Stalin's Siberia"--and it would mean California exactly. I think, where the perjuries and such EXIST AS FACT AND TRUE--and they are proved--under my citizenship, I pray this Supreme Court finds the rest of my days with some better luck than that, maybe even taking a peek at the amendments as they ought be.

I will show you they ought be (taken a peek at here).

((All the foregoing is also intended to satisfy, as best one could think to, S. Ct. Rule 14(h)).

## STATEMENT OF THE CASE

Bluntly, petitioner's case started with another case, a case preceding petitioner's case by over 2 years (web posting alleging speaking to a cop). Told in dist. court (go by original complaint) and in a declaration (docket 53) in cv 07-0113 SBA, "the internet case," these *public men, officials, deputies* (speech to public men, *NYT v. Sullivan; Hustler v. Falwell*), took a severe *public measure* (*Baumgartner v. U.S.*) against petitioner by dragging him for over 2 years through the indicting courts, without his life, pursuits, amendments, possessions, enslaved-to-legal, for

over 2 years, gutting his life savings, and dragging him for protected speech. Petitioner is on all records for unfathomably suffering those 2 years exactly *quietly*. But then something arose (petitioner's case before you now) where silence could exist no more....

Petitioner knew their mistake clearly from the start in the internet case. Without any job, he had the leisure for the 4 years previous to Apr. 8, 2004, to spend mostly discovering the consumer end of computers, including chats, forums, chameleons, parrots, monkey-see, monkey do-ers in them. He estimated about 3,000 authored posts nationwide on forums and chats across the years before he was arrested on surprise for a posting content in one Okie, Crescent City

forum. (Posting as exhibit A in original federal complaint in cv 07-0113 SBA.)

The SWAT team, with their 8 to 5 jobs, by that yet [2]early stage of consumer computing had no such leisure to know what he knew or had seen on the consumer end.

Clearly, in 2004...you may compare to the advent of automobiles, and KNOW the cops were in a pure state of bugaboo about new, new, new computers, computing and anything to do with them, perhaps especially leisure areas like forums. Elaboration:

---

[2] http://en.wikipedia.org/wiki/Internet#Creation : The earliest beginning: Although the basic applications and guidelines that make the Internet possible had existed for almost a decade, *the network did not gain a public face until the 1990s.* On August 6, 1991, CERN, which straddles the border between France and Switzerland, publicized the new World Wide Web project.

Compare: the very first cars came to the consumer about 1890. The computers weren't really catching the massive hold on the public they finally did, say, generally, beginning about 1994.

What is 10 years later, past 1890, in "cars"?: At that time, it's the common man (and the oft typically slightly stupider cop) who's never even been inside an auto engine, even though they were much more simple back then. It's the simple fact that a full 10 years after the advent of cars there *may have been only about 144 miles of paved road whose surface performed anything like asphalt today.

---

* "{In 1900} There are only eight thousand cars and less than ten miles of concrete roads..." from the 3 part film, "America 1900," a film by David Grubin Productions, Inc. Produced and directed by David Grubin. Written by Judy Crichton and David Grubin, part 3 called "A Great Civilized Power."

Now, what is 10 years later (after 1994) *in computers*? (it's also April 2004, arrest in the internet case.) The very same. Logically. The police and SWAT, same with the persistently-in-error d.a. and courts, were spooked by computers. This was all bugaboo. The [3]Duryea automobile; the Daimler auto (we're not even talking the Model T yet, which was 1908); Albion auto; the Runabout auto; Wolseley; the Dietrich....

Now think computers, 10 years after computers were just publicly adventing, (suggest 1994--general date, not that far off, footnote 2) being 2004, the year I was arrested in the internet case (April, 2004). Think Yahoo chat rooms, forums,

---

[3] http://www.anythingaboutcars.com/early-1900s-cars.html

any forums by and via the computer conveyance: They, cops (defendants in the internet case), hadn't seen this or these forums, and this new *conveyance* (computers) was bugaboo on top of that, and spooked them even more than merely the forums they had no knowledge or familiarity with, so they struck Gimbel down with a SWAT team for "speaking to a cop on the net."

Better to kill this man, Gimbel, than take a chance he could be right about something they had yet to understand, really at all. Accordingly, they confronted me on surprise at my house with an 18 man SWAT team with instructions and commands for me to involuntarily give them my soul, life, possessions, amendments, all my time-enslaved thereafter, finally my life savings--or

they would kill me. I did so. They are a recalcitrant state and defendants, actors under color who have yet to even offer 1 penny for the point blank murder of all that I was, where they just walked away and were done, when they took all the booty which is my soul from me in their ignorance.

But I knew immediately they were wrong, as I'd been in these forums for years already, daily, where they hadn't at all, and I saw and knew exactly the kinds of things that went on--forums, computers.

(Supreme Court, please bear with me; I DO hone the exact question in this petition with all my might, being ever aware of it, attending it as the objective of this petition. You will see. It is as "the cross before." I ask you take this

petition for certiorari, that you read on....)

Now, in our democracy, I'm a plaintiff, a form of prosecutor; I'm an equal; I'm a cop if need be, to solve some wrongdoing I see happen before me. That's alleged our democracy; we all are these, with none of us above the laws. Our constitution says we are equal. Somebody commits a crime, or does something wrong, and I will either take them down with arrest or correct them immediately the same.

With the preceding in mind, let's review what happens in *a police action* if a career cop thinks you've done something wrong. As we see and know in all instances, he's going to stop you, intrude, persuade, engage, until you're stopped or down. He's empowered to commit

unequivocally. The Supreme Harassment (the relentless hunter) in this universe on you until you're stopped or down, for merely suspecting you. He's there to tap your shoulder and cite you for anything as mild as jaywalking on up. As a fact, if you evade *any* cite, what happens with the law we own, is they will hunt you until you're caught or dead for resisting. This is relentless. They will use guns of any power wherever and whenever that hunt may continue, and for any wrongdoing, however small, which they merely continue to suspect. If your resistance is "spry," you will be pounded by called-up National Guard batteries, on out to the marines if necessary--whatever it takes until an "evader of believed, suspected wrongdoing" is cited or arrested or

dead. YOU WILL, if resisting (depending on your power, determination or length of your resisting), are *destined* to take fusillade after fusillade of every bullet and ballistic device in the U.S. military itinerary and inventory directly aimed at your face, until you've given up or the U.S. military, and paramilitary, has finally run out of ammunition. (To wit: e.g., David Koresh, Branch Davidian, National Guard tanks, etc.) Everyone knows this is the very substance of police actions in this United States.

Now I'm a cop of sorts, as I said, in a society of equals, in this democracy where the police are believed to exist only as servants of the people, whether of individuals, groups or the whole. Pertaining to the internet case, I was like a lone

cop facing off an 18-SWAT squadron of Hitler's finest, in their error. I knew, without reservation, that they were wrong. And they were.

What do/did I do? For one, I said earlier in here "Petitioner is on all records for unfathomably suffering those 2 years {after Apr. 2004 arrest} exactly *quietly*."

During those 2 years I lived with their evasion, logged it, collected data "as to their whereabouts" (no kidding; they were kind of behind their badges), looked for the day of reprieve.

But their always "returning to the scene" made it easier for me one day. As I continued my over 2 years of defending against their charges I knew to be wrong in the internet case, one day Mr. deputy Villarreal, (a respondent/defendant in

petitioner's case before you now, one of their own, the defendants' own, sheriff's dept. own in the internet case).... One day Mr. Villarreal, regardless of whether deliberate or out of his malfeased ignorance, was suddenly intruding upon my right in the system to fight the charges in the internet case I knew were wrong. This intrusion was immediately noticed coming obscenely close to the possibility of a "legal death," death by intruded-upon legal work in the internet case, given only *one right of appeal* in a case, and the fact I was doing my 1st-ever legal writing (appeal that acquitted the internet posting was 200 pgs.) He did this by usurping a provision of law, the right to self insurance in Calif. Veh. Codes in not recognizing proper DMV self insurance papers I had on me (well

focused in all lower courts, presenting a witness declaration that I had the proper papers on me; declaration of witness is in the appeal excerpts of record preceding this petition, ER tab 2, pg. 4; also in dist. court dock 2, Exhibit E). Whether by ignorance or not, Villarreal was putting me to serious, serious risk at exactly becoming an undefendable, "dead witness" in the matter of defending, solving charges in the internet case--charges, same charges that should have never existed (And, if you're aware, as in Watts, the police had initially tried to snug up a [4]felony charge against me for protected speech in the internet case. I truly

---

[4] Noticed in civil case 07-0113 SBA, orig. complaint, exhibit 6; and, declaration to amended complaint, docket 53, tabs B and C

gasped and stumbled from the power of their error and lies, and vowed to fight forever for the peoples' constitutional first amendment, particularly of speech. The d.a. took it down to a misdemeanor 30 days after arrest, by first appearance, but *added* another misdemeanor in the charge, obviously to keep up the spirit of meanness and killing me. His thoroughly robotic malice and legal stud bolt is obvious to me by now, maliciously stumbling me with two. This whole thing was a day of infamy against me and the first amendment I would never forget.)

Arming myself with my voice (same as a pen, all I had), about 5 days after Villarreal's malfeasance I called to Villarreal's individual answering machine at the sheriff's station....

The Villarreal subject speech on this answering machine at the station is exhibit C in plaintiff's, your petitioner's, docket 2 in the complaining district court. Look at it. 13 pages comprise it, where it is single space lines, courier new 11 font, on 8 1/2 by 11 paper. (Pasted into this court's booklet format, it becomes 33 pgs. with same font sizes. I will paste it directly over, to the letter, from exhibit C, and attach the pure speech to your petitioner's Pet. App. as Appendix 12.) I will discuss it, however, as this 13 pg. consideration in what follows:

You will NOTICE that far more than half of the subject speech discusses directly their incorrectness and error in the internet case: Beginning on pg. 6, we electronically count the word "internet." Nine hits.

From pg. 6 to the end of 13, I'm therefore discussing ONLY (very close) *the internet case,* and his department's error, to Villarreal, this direct reference using the term "internet" appearing over once per remaining page. The word "post" or "posting," used usually in the words "internet posting," but sometimes referring to merely "the post" or "posting," appears ELEVEN hits from pg. 6 to the end of 13. In all counted instances it refers only to the internet posting.

From pg. 6, inclusive, to pg. 13, inclusive, is therefore 8 pages of 13 discussing ONLY the internet case to him. 8 over 13 is 62% rounded upwards from .615. I'm protesting their exact (came to be) PROVED error in the internet case.

BUT, by TWO counts, (Roman num. I, II, that will follow quite later, below) this 62% is really about 99.5% a "police action" against their continuing internet case error, to Villarreal and his dept., and to Villarreal's new interference occurring through his ignorance and error which is now interfering directly with defending against their wrongful charges in the internet case. Under these exact circumstances, this deputy was horrifically discovered, whether by malfeasance or not, directly interfering with the duties and right of a citizen to fight for the first amendment for the people of the United States, in the internet case. He began obstructing, through further obvious malfeasance, ignorance and error coming from the sheriff's department, in the middle of this

important peoples' battle--a battle that might easily allow one only 1 chance for victory. It felt upon me as the knife of Satan killing the witness, attorney and defender, using the sheriff's power and authority to do so. Accordingly, I went and told him as much in the subject speech. But there's more...

As the lone cop for the people against Hitler's finest, I got in my trench with my pen, my voice, and I called up to readiness the National Guard of alphabets and words (under the first amendment allowing protest), and protested vehemently upon his answering machine against further murders of me. Alas, they

[5]took from me the booty of life again for Villarreal, (exhibit J in docket 2 in complaining district court) though they are clearly wrong again. As you see, I PROTESTED PREDOMINANTLY IN THIS SUBJECT SPEECH THEIR ERROR IN THE INTERNET CASE (will further prove and show), PROTESTING ONLY WHAT WAS AN EXACT ERROR ON THEIR PART (their SWAT against protected speech in the internet case).

It gets even stupider and more unjust; don't go away. As this:

---

[5] And in this illegal holdup of the first amendment, more booty was taken from a truly murdered soul, me, where in form item 8 in exhibit J, as I'm already continuously suffering OVER 2 YEARS of this now *for their error*, they take the booty of the 2nd amendment for another insufferable year, just to hurt me. The constitution, at every number and item, is not without importance; this was booty incarnate.

Did you notice the original charge of "harassment" (exhibit J in docket 2 in the complaining district court of this petitioner's case)?

OK, I've got it.... You will see. You have to just creeeaammm them sooooo badly for that, by this:

I am a policeman of this United States, same as any. When it happens I must correct the police themselves, no more no less, still one. I'm...I was *drafted* for the people in this action that went forth, the subject speech to Villarreal. I called up the National Guard of Words, the National Guard of Pens, and the marines of fonts and letter characters to arrest his, Villarreal's attention with words, to get Villarreal to immediately desist further errors on their part. I addressed to him his new malfeasing error was in fact hitting

me exactly no different from someone trying to kill an attorney or witness. That is precisely what was going on in my life, and the speech does show it.

It gets even stupider with these defendants...resume....

OK, we have partly shown, and will further, the subject speech to Villarreal was VERY PREDOMINANTLY addressing what came to be their proved error in the internet case.

Don't they say in this country most speech is protected anyway...*where that speech just may happen to differ from correctness*? That opinions, speech, is allowed, albeit where massively incorrect? And incorrect as to its content?

But what's this?! *Gimbel's speech to Villarreal, predominantly protesting and addressing a* [6]***public measure*** *which was repeatedly being taken against himself in the internet case, was dead on the mark, accurate--he was right all along, where they continued to be wrong for immense lengths. Gimbel, in the Villarreal speech, is telling them/him/Villarreal they had it wrong--AND THEY DID*!

YOU ARE TO BE PUNISHED BY COPS IN THIS COUNTRY, COURTS, AND D.A.'s FOR PROTESTING TO PUBLIC MEN, COPS--WHEN YOU ARE RIGHT?! Including the Del Norte

---

[6] *Baumgartner v. United States:* SUPREME COURT, *1944:* Justice Frankfurter put it succinctly in *Baumgartner v. United States, 322 U.S. 665, 673-674 (1944)*, when he said that "[o]ne of the prerogatives of American citizenship is the right to criticize public men and measures...."

district attorney just [7]whacking and whacking away for another criminal trial for the same Villarreal subject speech after they whacked my soul out in the restraining order sanctions, causing me unparalleled suffering to have to be distracted by that now too?!

And a cop is clearly a public man, as well. (Ibid, *Baumgartner; Hustler; NYT v. Sullivan*)

But the stupider has not even begun...again, resuming stupider...the "harassment" charge--did you notice?

I'm a lone cop, the call as above. I get the call on Villarreal damaging the fortress (and times) of the right to defend with my pen. I'm

---

[7] Exhibit J in docket 2 in the complaining district court of this petitioner's case; The case became 6 mos. of case CRM 06-9586, with their insane-caused volumes and volumes of involuntary slavery tendering that case.

gonna arrest his attention about it immediately. I've now available the National Guard of the Alphabet, and all their fusillades of fonts and letter characters are at my disposal, and I have access to all the marines of letter characters and fonts, and all *their* fusillades of spoken or written characters and words, too, on out to the Air Force of larynx (or pen) to deliver it, and I'm going to stop this crap, and stop this guy right here. As a drafted policeman, I have the right to stop the subject with whatever it takes (keep in mind ***words*** are my only weapons throughout--the ONLY weapons God, the nation and the times gave me to use since years ago at that point). And I will use them as I have to. And remember, it's PROVED they committed wrongdoing in the internet case; they

were wrong all along. As a matter of law, the SWAT team was never supposed to have been there.

Whatever word force it takes is my right now to correct wrongdoers. Now, how do you define exactly my right using words only...? Sift the petitioner's aiming, original question, and throughout....

The fusillade of words, in my discretion may be used. The "Harassment" charge?

Negative on that charge. A chilling observation goes forth:

As an officer of the United States doing duty for its first amendment for all the people in the internet case, I have/had, and ever shall have had, the right (make precedent tracks now, o Court Supreme) to come in time and again, and berate this man, Villarreal,

regarding the FACT (which came to be recognized and proved) of their error in the internet case, with all the necessary force of fusillades of fonts, spoken and written, until that subject (Villarreal)...is (his attention) arrested to compliance. There's no question in my mind a protest that corrects them is even more allowable.

IN OTHER WORDS, given my protesting to Villarreal surrounded, and continued to surround *the protest of their error in the internet case,* and arrest of their attention to it, I was allowed, as a matter of law, and rightful accurate protest of ESTABLISHED ERROR (albeit later established)--GET THIS--TO CONTINUE INDEFINITE SPEECHES TO HIS ANSWERING MACHINE, DAY OVER DAY, UNTIL THE SUBJECT (HIS

ATTENTION) IS APPREHENDED, has *desisted* the exact error of their ways in the case. In other words, had I left an hour of speeches daily to Villarreal for the 2 weeks that remained before an unforeseeable acquittal in the internet case came, where I'm only vituperating predominantly against their proved error in the internet case, it is still protected in the name of dutifully attempting to remove Villarreal's perceived-as-criminal, enemy-type obstruction to my doing duty and justice to the peoples' first amendment in the internet case. The Villarreal subject speech, however long it could have been, *and as long as it addressed their internet posting error*, which it did-- which same error is fact--was, THEREFORE, one of only a righteous correction of an

exact error on their part, not even some indiscriminating protest. It was, therefore, of the better kind among protest.

The people do not have to tolerate being SWATTED in error, then obstructed by some further malfeasance, directly coming from their tormentors, keeping them from defending the first part.

The right to "take down the subject" for his error is inherent to the police power of the people, using words. I could have used the friggin' spoken alphabet indefinitely, on out to the "National Guard of Alphabets" indefinitely, until purpose was fulfilled, including "nuclear fonts," but, as an officer for the people, the peoples' first amendment, I delivered the 34.5 minute total chew out to Villarreal, then dutifully saw I had to

definitively return to my defending duties (elaborated as huge-still at the time), in the internet case. It was never in the stars that I could waste any more time than I did in attempting to remove his obstructing, wrought of his malfeasance.

As partly this, the speech was never, NEVER prosecutable. A huge, huge injustice against the first amendment has gone forth. I want such to stop now, as best as possible, that The People are never subject or subjugated to such as this Gestapo, anti-speech, wanton whale that swallowed me, taking continuous, year over year unfathomable hacks of my soul for speaking to a cop, suffering, taking everything I had in its, their error, but by its power, de facto. Let this Supreme Court of time's trek and last resort firmly

nudge that power now to bless the people in glorious re-ratification of the founders' first amendment of speech.

And continuing now...Roman num. I, from pg. 25:

I

" ...this 62% is really about 99.5% a "police action...{words used in justifiable self defense to apprehend a large institution of wrongdoers who were committing further error, wrong and malfeasance in Villarreal}"

For this view, Rom. num. I, just LOOK at the situation. Unfathomable lengths of Gimbel's life removed, set to involuntary slavery in the internet case: record showing he suffered the 2 years of this without a murmur. I didn't say

"boo" for a full 2 years of their wrongdoing. That's a lot more than they deserved for what I was going through. The removal of my all in the internet case, and every second of this over 2 years, felt to me like my soul and residence had been turned into a Gitmo, and for protected speech. When Villarreal malfeased (didn't know self-insurance codes or laws--deprivation of a provision of law), by this detracting me from my scary-if-one-shot appeal SURGERY for the people of the United States...brother, I got out the peoples' badge and the National Guard of the spoken alphabet, and went after that character on his answering machine, declaring their insanity, error, wrongdoing in the internet case.... And now malfeasance detracting the defense of it, while I sit here quietly

suffering it for years removed of all former life.... Declaring it to be, well, the last straw with these characters. By their own acts they created an unfathomably loaded, last straw situation. I met their proved error, evil, with words, which were all I had to defend with in the action, all I had to apprehend the attention of the evildoers with. The circumstances of their errors which thrust the unwanted, timeless trash of life's trashes upon me, invited my speech, hands down, in every way.

II

" ...this 62% is really about 99.5% a "police action...{further affirmative view}

For the view in Rom. num. II, we go to examine the first 6 pgs. of

the 13 (having already established herein that pgs. 7-13 were, with the exception of only 1 or 2 small paragraphs, discussing and berating the internet case error to Villarreal):

Upfront, the 6 pgs. here are SIGNIFICANTLY containing islands of references AGAIN of the internet posting error made to Villarreal in the subject speech, making literally the *whole* speech an arrest (and of their attention) for their proved error in the internet case! Not just pgs. 7-13. And what's wrong with telling somebody you're arresting their attention over their wrongdoing? They're under arrest now, (or recompense-committed) with this court's help, and for evading 5 years under color of law.

Here, look:

All the following quotes from the subject speech are in pgs. 1-6 only of the subject speech:

1. Pg. 1, direct, obvious reference to internet case:

" I'm getting so tired of having to talk to some of you cops for some of the things that you do."

2. Pg. 1, direct, obvious reference to internet case:

"and it's very difficult being saddled with the sh*t that they do...."

3. Pg. 2, direct, obvious reference to internet case (complicity of court function as a cog in furthering their proved error and malfeasance in the internet case, also generally told in original complaint, cv 07-0113 SBA, federal complaint):

"And even the courts tend to see things -- cover up -- cover their eyes

to total malfeasances that are (gap in sound.)"

4. Pg. 2, direct, obvious reference to internet case:
" Based on the smell of pigs that I've -- I've had in my life *these last couple of years*,..."

5. Pg. 2, intended statement of the "couple days" distraction he was causing against defending the internet case undisturbed or without interruption--a surgery:
"audacity to slough that shit off by causing me *another couple of days* in preparation...."

Pg. 6-13 contains then, further significant pure speech berating their internet case error. It says they started this whole thing by being wrong, and as a matter of law they were wrong--

and they did start it--and they were wrong.

So the WHOLE thing, speech, now adding Rom. num. II, is OUTSTANDINGLY about their error in the internet case (a proved and factual error and wrongdoing) when you add up the elements in the speech.

The whole speech was clearly born and initiated of, by their error; is a galvanizing to the correction of their internet case error.

Relief:

A. I have been inner-mauled unmercifully for years by all this, and I conclude by asking this court to simply accord the recompense, ("summary judgment on the existing record"?) and it all be done with, if that's in its power. I suspect it could be, as the highest court in the land.

B. A finding of protected speech would be inherent to the previous.

C. Findings of perjury under oath by defendants.

D. Findings that Villarreal, under color of law, and in contravention of CA civil code 52.1(a)(b) did in fact deprive me of a certain constitutional provision of law, "the right to enjoyment" pertaining to self insurance. This occurred *before* the subject speech issued.

CA civil code 52.1 (a):

"If a person or persons, whether or not acting under color of law, interferes by threats, intimidation, or coercion, or attempts to interfere by threats, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals

of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state,...."

The obvious is, per the previous, Villarreal, under color of law, coerced me to eat his ignorance. They'd been force-feeding me that for over 2 years already with their error in the internet case; I was full. No thanks.

Had the time of Villarreal been any other time-of-times than the possibility he would detract and unseat the defending fight for the peoples' first amendment in the internet case, I probably never would have said "boo" at his ignorance. He, his dept., by their own repeated errors and malfeasance, was a last straw.

Dated: March 29, 2009

JOHN GIMBEL,
Petitioner for cert./
plaintiff

Table of contents to appendices

Memorandum of the 9th circ. of appeals, filed January 13, 2009.....
.....Pet. App. 1

Opinion of district court, filed February 29, 2008.....Pet. App. 4

Subject speech, exhibit C in declaration, docket 2, filed November 15, 2007 with complaint...
.....Pet. App. 11

Appendix 1

FILED
JAN 13, 2009
MOLLY C.DWYER,CLERK
U.S.COURT OF APPEALS

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JOHN GIMBEL,
Plaintiff -Appellant,
v.
STATE OF CALIFORNIA, et al.,
Defendants -Appellees.

No. 08-15701
D.C. No. CV-07-5816 CRB

*MEMORANDUM

Appeal from the United States District Court
for the Northern District of California
Charles R. Breyer, District Judge, Presiding

Submitted December 17, 2008**

Before: GOODWIN, WALLACE, and RYMER, Circuit Judges.

---

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir.R.36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed.R.App.P.34(a)(2).

# Appendix 2

John Gimbel appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action for lack of subject matter jurisdiction. We review de novo a dismissal pursuant to Federal Rule of Civil Procedure 12(b)(1). *Bianchi v. Rylaarsdam*, 334 F.3d 895, 898 (9th Cir. 2003). We affirm.

We have reviewed Gimbel's prolix complaint and agree with the district court that the *Rooker/Feldman* doctrine prevents the district court from exercising jurisdiction over Gimbel's action alleging First Amendment violations. *See Dist. of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983); *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923). In his state-court appeal, Gimbel raised his First Amendment rights in defense to the restraining order imposed against him by the state trial court, and the court of appeal addressed his argument and rejected the claim on its merits. *See Villareal v. Gimbel*, No. A115201, 2007 WL 1229493 (Cal. Ct. App. 2007). Even liberally construing Gimbel's current allegations, *see King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987), Gimbel's federal complaint
makes clear that he is merely attacking the propriety of the state court's rejection of his First Amendment challenge, which is precisely the circumstance where the *Rooker/Feldman*

doctrine prevents federal courts from exercising jurisdiction. *See Ignacio v. Judges of the U.S. Court of Appeals for the Ninth Circuit*, 453 F.3d 1160, 1165 (9th Cir. 2006); *Bianchi*, 334 F.3d at 898–99.[1] He cannot evade the *Rooker/Feldman* bar by pleading his claims through the vehicle of 42 U.S.C. § 1983. *See Worldwide Church of God v. McNair*, 805 F.2d 888, 893 n.4 (9th Cir. 1986). Therefore, the district court properly dismissed Gimbel's action for want of subject-matter jurisdiction.[2]

**AFFIRMED.**

---

[1] Gimbel did not appeal to the California Supreme Court. The *Rooker/Feldman* doctrine applies equally to the decision of the California Court of Appeal. *See Dubinka v. Judges of Super. Ct. of State of Cal. for County of Los Angeles*, 23 F.3d 218, 221 (9th Cir. 1994).

[2] We need not reach Appellees' argument that Gimbel's complaint is also barred by res judicata and collateral estoppel.

# Appendix 4

**FILED**
Feb 29 2008, Document 31

**IN THE UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

JOHN GIMBEL,
Plaintiff,

CASE NO.: **07-5816 CRB**
**ORDER GRANTING MOTION TO DISMISS**

v.

STATE OF CALIFORNIA, COUNTY OF DEL NORTE, DEL NORTE COUNTY SHERIFF'S DEPARTMENT, FRANK VILLARREAL, DEL NORTE DISTRICT ATTORNEY, UNNAMED ACCOMPLICE "DOE" TO VILLARREAL, DEL NORTE SUPERIOR COURT,

Defendant.

Now pending before the Court is Defendants' motion to dismiss for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1).

# Appendix 5

Defendants request that the Court dismiss plaintiff John Gimbel's claim for relief on the ground that the claim is barred by the Rooker-Feldman doctrine. After carefully considering Plaintiff's complaint, the Court concludes that subject matter jurisdiction is lacking and GRANTS Defendants' motion to dismiss. The hearing schedule for March 14, 2008 is thereby VACATED.

**BACKGROUND**

This cases arises from the issuance of a one-year restraining order, effective from July 21, 2006 to July 21, 2007, prohibiting Plaintiff from contacting defendant Frank Villarreal. Compl. ¶ 4. The initial act of harassment involved a series of phone calls to Villarreal's place of employment at the Del Norte County Sheriff's Department. Compl. ¶ 5. These calls commenced after Villarreal issued Plaintiff a citation for inoperable break lights and for failure to provide proof of automobile liability insurance. Gimbel Decl., Ex. N. On June 5, 2006, Villarreal commenced a state civil court action with the Del Norte County Superior Court seeking a request for orders to stop harassment, a notice of hearing, and a temporary restraining order as a result

of the phone calls placed by Plaintiff. Gimbel Decl., Ex. A.

On June 23, 2006, Judge Follett issued a three-year restraining order prohibiting Plaintiff from coming within 100 yards of Villarreal, his home or vehicle, and contacting him by telephone. Gimbel Decl. at 10:5-27. Plaintiff failed to appear and claimed he had gone to the wrong courtroom. Id. at 5:1-3; 11:10-15:17. Subsequently, Judge Follett granted a motion to set aside the restraining order on July 21, 2006. Id. at 21:1-11.

A second hearing was held on July 21, 2006, at which time the one-year restraining order was issued against Plaintiff. See id., Ex. F at 21-41. Plaintiff then appealed the issuance of the restraining order to the Court of Appeal for the State of California. Villarreal v. Gimbel, 2007 WL 1229493, at *1 (Cal. Ct. App. April 27, 2007). On appeal, Plaintiff claimed that his phone contacts with Villarreal were protected by his right to free speech under the First Amendment of the United States Constitution. Id. at *2. The Court of Appeal affirmed the trial court's order granting the restraining

order. Id. at *3. Plaintiff now attempts in federal court to seek relief under 42 U.S.C. § 1983, alleging that his First Amendment right to free speech has been violated.

**STANDARD OF REVIEW**

Pursuant to 12(b)(1), a district court must dismiss an action if it lacks jurisdiction over the subject matter of the suit. See Fed. R. Civ. P. 12(b)(1). Unlike a motion under 12(b)(6), the Court is not required to accept all of the non-moving party's factual allegations as true. Instead, the party moving under Rule 12(b)(1) may submit evidence indicating that the court lacks subject matter jurisdiction. "It then becomes necessary for the party opposing the motion to present affidavits or any other evidence necessary to satisfy its burden of establishing that the court, in fact, possesses subject matter jurisdiction." Ass'n of Am. Med .Colleges v. United States, 217 F.3d 770, 778 (9th Cir. 2000) (noting that a district court "obviously does not abuse its discretion by looking to this extra-pleading material in deciding the issue, even if it becomes necessary to resolve factual disputes").

**DISCUSSION**

# Appendix 8

Under the Rooker-Feldman doctrine, federal district courts lack jurisdiction to review final state court judgments. See District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 482 n.16 (1983); Rooker v. Fidelity Trust Co., 263 U.S. 413, 415-16 (1923). With the exception of habeas corpus petitions, the Rooker-Feldman doctrine prohibits district courts from "sit[ting] in direct review of state court decisions." Feldman, 460 U.S. at 482 n.16 .The doctrine bars "a losing party in state court . . . from seeking what in substance would be appellate review of the state judgment in a United States District Court, based on the losing party's claim that the state judgment itself violates the loser's federal rights." Bennett v. Yoshina, 140 F.3d 1218, 1223 (9th Cir. 1998) (quoting Johnson v. De Grandy, 512 U.S. 997, 1005-06 (1994)).

The Rooker-Feldman doctrine derives from 28 U.S.C. § 1257, the statutory provision that grants the Supreme Court jurisdiction to review decisions of the highest state courts.

Because the statute reserves jurisdiction exclusively to the Supreme Court, "it is improper for federal district courts to exercise jurisdiction over a case that is the functional equivalent of an appeal from a state court judgment." Ernst v. Child & Youth Servs., 108 F.3d 486, 491 (3d Cir. 1997). The doctrine precludes not only review of decisions of the state's highest court, but also those of its lower courts. See Dubinka v. Judges of Superior Court, 23 F.3d 218, 221 (9th Cir. 1994).

Here, Plaintiff's eighty-five page complaint does not state a valid basis for subject matter jurisdiction because the case falls directly within the Rooker-Feldman doctrine. Plaintiff's complaint challenges the restraining order issued against him in state court, arguing that it violated his First Amendment right to free speech. Plaintiff requests that this Court invalidate that judgment and enjoin its enforcement. Plaintiff is essentially trying to seek appellate review of the restraining order. The Rooker-Feldman doctrine clearly prevents this Court from granting Plaintiff the relief he requests.

The mere fact that Plaintiff has asserted constitutional claims under 42 U.S.C. § 1983 does not correct the jurisdictional problem. See Worldwide Church of God v. McNair, 805 F.2d 888, 893 n.4 (9th Cir. 1986) ("Cases subsequent to Feldman make it clear that Feldman's jurisdictional bar applies in the §1983 context, as elsewhere."). The Rooker-Feldman doctrine precludes district courts from considering constitutional claims that are "inextricably intertwined" with the state court's rulings. Id. at 891. A federal claim is considered "inextricably intertwined" with a state court judgment "if the federal claim succeeds only to the extent that the state court wrongly decided the issues before it." Pennzoil Co. v. Texaco Inc., 481 U.S. 1, 25 (1987) (Marshall, J., concurring). In other words, "the district court does not have jurisdiction if it cannot evaluate the constitutional claims without conducting a review of the state court's legal determinations in a particular case." Lefcourt v. Superior Court, 63 F. Supp. 2d 1095, 1098 (N.D. Cal. 1999).

Plaintiff's complaint asks the Court to review and invalidate the state court decision. But the Court cannot

evaluate Plaintiff's federal claim without, in effect, conducting an appellate review of the state court judgment. The fact that plaintiff frames his charge as a § 1983 claim does not alter its fundamental nature. Because the Court does not have subject matter jurisdiction to decide this matter, the defendants' motion to dismiss is granted with prejudice.

**IT IS SO ORDERED.**

Dated: February 29, 2008

s/CHARLES R. BREYER
UNITED STATES
DISTRICT JUDGE

G:\CRBALL\2007\5816\Order to dismiss.wpd

# Appendix 12

*Transcription of tape one of two, entitled "Chew-out Speech of Frank Villareal, May 21, 2006." Tape received at Fitzgerald Depositions, 730 Seventh Street, Suite C, Eureka, CA, 95501; from John Gimbel, 225 Brevus Street, Crescent City, CA, 95531, on or about September 12, 2006.*

Tape one of two transcribed as follows:

MR. GIMBEL: This is John Gimbel. I did -- I got a ticket from you the other day. I believe it was May 16th, on a Tuesday. You know, I'm getting so tired of having to talk to some of you cops for some of the things that you do. But -- and I've been giving an awful lot of thought to what happened there the other day. In fact, I -- since that time, I have been tossing and turning in about the same way, as if my head has been pretty much twisted off altogether day and night, if that says anything about the matter.

I'm a terrible speaker. Please bear with me. I'm not really nervous because I think I've got you in the wrong on this thing, even as such, when I feel I'm right.

Well, the ticket number was 011270. We appear to

have you in a rather severe state of ignorance as to the law and we're finding that a very serious little matter, actually, since you were the purported person supposed to know probably -- probably supposed to know it, by every standard and indicator, better than most. If you don't, don't be mettling with citizens as if you did; right? Well, we've got a case here where you didn't; and you went out mettling, okay. The fact of the matter is you -- you asked me for my -- my evidence of financial responsibility up front, after the stop on the brake lights. And I handed you the exact papers that I had on that, which are current and proper, and showed you the headers saying DMV, cash assignment to DMV. You appeared not to have -- not to know, actually, what self-insurance is by you saying at one point something like, "I don't know anything about that." And at one point you were looking at the papers and saying, "But I don't see a vehicle license number in here anywhere." Well, the fact of the matter is your ignorance is -- is (unintelligible); it's tragic. You're a piece of shit, to put it mildly, actually. And I'll work up to

something less than mildly before this little conversation with you is over, I'm certain. In regards to your malfeasance, in fact, actionable tort in the eyes of the law, it could either be a criminal tort against you and/or civil. Of course, I'm

2

going to settle for civil only. We'll let you go out and run your little charade of nonsense against other citizens just as long as you pay up front to some of your victims, as -- as the law will permit.

3

MR. GIMBEL: We'll continue a non -- keeping in mind, I'm really a bad orator, by my own acknowledgment, and I'm very, very tired of what -- waht pigs do; and it's very difficult being saddled with the shit that they do and never having it, you know -- like, sticks to you like glue, you know, because they're such egotistical shit mouths in so many cases. It will continue to. And even the courts tend to see things -- cover up -- cover their eyes to total malfeasances that are (gap in sound.) Anyway, you saw --

looked at the papers; and you're asked -- you're saying,
"Well, I don't see the vehicle license number on here."
Okay. 34630(a), "Although the vehicle may not be
specifically described in the policy --" hey, what about
that, shit mouth? I'll tell you what about that. I'll
tell you that I think there's actionable tort here and that
you are precisely guilty. You spent about a half hour back
there pretending some nonsense over looking into my
insurance, wasting my time. I would definitely call --
call that false -- wrongful and false detainment in a civil
action. Based on the smell of pigs that I've -- I've had
in my life these last couple of years, in my eyes, even
though this may look a little extreme to some, it doesn't
really to me, based on the treatment that I perceived

4

somewhere in the vicinity of a hundred million dollars'
wrongful and unlawful detainment.
There are two kinds of laws, by certain sets:
One is -- the one group will tell you you don't do this and
if you do, these are the consequences (unintelligible)
penalty. All the others are provisions. This particular

area of code in the Vehicle Code 16020, for example, (a), is a provision -- a provision of law. It is a statute, the the same as any other statute that tells you you don't do something. This one is the provision that tells you you can do something. Now, once you have been accord (sic) of that provision and gone about it in all legitimate recognized ways, there is no one that can take it from you. Unfortunately, for your shit-mouth face, Mr. Shit-mouth Villareal, you tried to take it away from me because you are ignorant of the law. Have you ever heard people try to make -- when they're up on the -- you know, they are defendants, People of the State of California are doing something and they say, "We're sorry, Mr. defendant, but ignorance is no excuse"? It can be a mitigation, but it -- it is not that often an excuse, right? In fact, I had more on that. Witness -- to witness -- to wit --

5

MR. GIMBEL: To wit: Mr. Villareal, the people in the system that you've (sic) undoubtedly aware and have seen at that stage where they're at sentencing in some

matter, you hear the Judge -- in every instance, he'll say something like, "You are to obey all laws."

Now, the fact that they didn't is why they're there in the first place. So we all no, do we not, Mr.



Shit Mouth, that every citizen is being told that by society, and especially by the people that are so called empowered to enforce the laws. They intend this to evince it. It is the state of affairs at hand. You are to obey all laws with said law and before it was ever said. It's as simple as realizing that these people wouldn't be here had they understood that. You are -- since you are not to break a law, it is implicit in society, that it has always been intended and said by society at large, you are to obey all laws. The Judge is just reminding this guy who got in trouble, you know, at the time of sentencing and some alleged conviction, right? Well, okay.

You, Mr. Mother-fuck Mouth, disobeyed the law.

What do you do about it? You disobeyed the law which gives

me a certain provision, by statute, to be self-insured; and I had the correct papers on me. You not only fucking disobeyed it, you wasted a half a fucking hour of my time and my pursuit of life and happiness. And then you had the fucking audacity to slough that shit off by causing me another couple of days in preparation, which, in my state of health, it is actually a couple of days of state of preparation that I have been caused in and about the time at which I am defecting (sic) appearance over a pile of shit that you generated that is not even up to being a pile of shit, shit mouth. Do I make myself clear? Yes, I

probably sound a little bit more like your mother; but I'm actually your drill sergeant, shit mouth, so hang in there.

I've got plenty more to say.

That wasn't your only real big problem.

Obviously, you failed to recognize that there was the right to self-insurance at all. Ignorance of the statute 16029a), one -- one item, one count, you're in violation of it because deprivation ensued and wrong -- that is, in terms of wrongful detainment. And the 34630, you bluntly

violated, also, claiming that -- in fact, I was even trying to be nice to you. It took me a little by surprise. I knew I had the legitimate papers there; and you said, "Well, the vehicle license number isn't in here." I was actually going to -- because you were standing there with -- threatening me with your gunslinger shit-mouth mentality --

8

MR. GIMBEL: So continuing on. Oh, my God, you know, I was near the end of the message length just on that one previous to this; and I did not hit the pound sign. I just hung up on that one and started going back in to deposit some more, so I hope you got that one. I'm here speaking in -- yeah, I hope -- I do hope you got that one. I had some very, in my opinion, important points to make. I can produce for you a transcript of what I am saying here at this point. By the way, for any reason you perceive that you may have missed something, I'm telling you that

9

continuing on with the code, placed directly upon the

papers I showed you, as I stand and look at them here, was also stated directly on it, the -- the assignment letter, the assignment of deposit -- of cash assignment to the DMV. It said it right on it. Your -- your ignorance was abysmal. You are illiterate, per the code. Something that should not even be the case. You have caused tort by your ignorance and you are now absconding, I presume. Now, if, piss-of-the-pig-eye, you're absconding, I think what you're going to do is come forth with some kind of an apology about this.

And I might point out, by the way, I'm not harping on the brake thing. You know, I like to watch that stuff myself. Nobody, not even the worst so-called thug in the world, would ever go without brake lights because nobody wants to get rear-ended. So I question, in addition -- and I'll do this in a legal document; I'm good -- I can spend the time with them. I've created legal documents and I've had them accepted. To point out the fact that, why is the state going to these lengths to cause for there to be a fine and an infraction over brake lights. I mean, it's like this, motherfucker shit mouth, you know, I'm not too

worried about the brake-light thing, to tell you the truth.
I'm going to fix them. I always keep my eyes on those
sorts of things. In fact, I even removed some paneling in

10
the back of my -- my rig, the very one you stopped me in so
if I could monitor, so I could see the lights when I turned
around and see them. I can't quite see them out of my
rearview mirror, but -- rearview mirror; but if I turn
around, I could see them. And time and again, I'll turn
around and look, you know, when I press the brake pedal or
if my blinker is working. Otherwise, I have to get
somebody out, have to stand outside the car, you know. So
I'm safety conscious; and nobody, you know, wants to be
without brake lights. You get rear-ended, right? So --
but your handling of it, I question the State authority,
especially authority, because I'm going to point out to you
it's rather idiotic. It's like you have a light bulb burn
out in your fucking home, dumb --

11
MR. GIMBEL: Yeah. Where was I? Okay.

Your -- the brake lights. Yeah, your -- you just had a light bulb burn out, you're reaching up to unscrew it to replace it; but the fucking little dirty yellow shit-mouth gunslinger Crescent City Opie-do farty pinko by the name of Villa-shit-a-real or any other goon you can name in there, including your -- your head cockroach, Wilson -- steps up to you and -- and instead of saying -- instead of saying, "That's a good idea," he fines you before you can put in a replacement in an infraction ticket. I mean, like, this infraction ticket looks like

it's -- it's headed for a fine, right? I wouldn't -- you know, it could head for a fine. I think I understand that. A fix-it ticket is different. A fix-it ticket would have been, you know -- I can see a ticket, you know, where it's



headed, possibly, for a fine if it's the second time a person has been advised and -- and with knowledge, the -- the officer looking at the brake lights for the second time and knows that he's already been -- advised someone, well, then, possibly.

But, you know, you went ahead and you used the sledge hammer, you know. Having come across this the first time and -- anyway, you know, people aren't interested in running around without brake lights. And the incentive for me to get them fixed wouldn't -- didn't require that sort of thing.

At any rate, the only real problem is, of course, your -- your wrongful detainment, the half hour you spent dawdling back there, your -- your-thumb-up-your-butt face. And that other thug with you, Patrolman Thug Something-or-other, apparently didn't know anything either. If you had the brains or wherewithal to ask him about self-insurance -- shit. Hey, there's two of you fucking dummies in this -- in this story now, I'm just realizing. Hey, thanks.

So, anyway, yeah. It said cash assignment right on them, a perfectly legitimate document; and you wasted a half hour of my time. If you want to set (sic) some kind of apology about it, motherfucker, you just start getting your shit a little straighter and we'll be expecting one of



those one of these hours, then, okay?

14
1
6
12 MR. GIMBEL: So your
ignorance -- and I'm reading
13 you Section 1602(a) -- 1602(a) --
excuse me, 160202 of the
14 Vehicle Code: "If the owner is a
self-insurer,
15 as provided in Section --" yes
-- "and shall
16 carry --" excuse me -- "and
shall carry --
17 shall at all times carry in
the vehicle
18 evidence of the form of
financial
19 responsibility in effect for
the vehicle.
20 Evidence of financial
responsibility means
21 any of the following --" one,
doesn't apply.
22 "Two --" here it is -- "if the
owner is a
23 self-insurer, as provided in
Section 160502,
24 or a depositor," which is what
I am, a depositor,
25 "as provided in Section
160542, the

15
1 certificate of self-insurance
or the
2 assignment-of-deposit letter
issued by the

Department --" it says right on the fucking thing I showed you, cash assignment to the DMV. You just can't get any more blatant. You fucked up.

And you know what's so sad about this case of illiteracy is what really has got me riled up. Well, as I said, of itself and the circumstances I'm in -- I have mentioned, you know, my head has been twisted off since smelling you and about your incompetence day and night and even -- even being permitted to chew you out like I am now is not going to be any thrill. I -- I need some action about this fucking pig shit that keeps cropping up in my nose.

And if I may, I'll bring up a little bit of that to your attention again. Excuse my poor oratory skills. Words that Abe Lincoln fellow here -- we may get (unintelligible), you fucking yellow bastards. But, see, the deal there was I've been in two years now. I've had my life ripped out two years. I was arrested on April 8th, 2004. I'm not sure you're aware of the case. I would think most of the deputies down there would recall it or have had -- seen something to do with it. A lousy stinking

24 little Internet posting that I happened to plunk down on
25 a -- well, I don't know if you heard of www dot --

16
1 www.crescentcity95531.com? It's a place for christians --
2 the christian Okies to gather and talk about their -- you
3 know, the dresses they've sewed and what have you; how
4 their cans -- canned-goods effort is going; whatever, you
5 know. I wrote something that -- you know, it was kind of
6 after my style that they didn't find funny; and they --
7 they alleged that I threatened the police chief -- the city
8 police chief, right. But it's a crock of shit without end.
9 But, you know, since he's got the ego that he does, you
10 know, and they want to stay on the good side of their --
11 their top cockroach gunslinger, you know, they -- they
12 rammed the whole system against me. And I'm fighting them
13 tooth and nail. I'm going to win yet because they're
14 all --

17
5
14 MR. GIMBEL: So continuing on, Mr. Villareal. If
15 I may call you an Okie-fucking-pig-filled-with-shit-real or

something, it's more appropriate, I would think. Hey, you're in my court now, motherfucker.

Yeah. Your illiteracy. Most annoying. Most annoying. Of course, you're really guilty of wrongful detainment; and that could be proved and very easily proved, I think, and found discoverable in a -- in some chicken-shit court of law if they're -- if they're up to the truth and everything, which is, you know, a pretty precarious proposition in this fucking-shit American little system we have shoved in my nose here.

18

Anyway, I was talking about the Internet posting. Illiterate fucking pigs, you know, they took this posting the wrong way. They are just so fucking illiterate. I mean, thank you -- and by the way, thank you for the sample -- for your sample. I've known this all along and, I mean, that's not why I post. I post, you know, because they -- because they're fucking cockroaches posing as gunslingers or -- excuse me -- one or the other, vice versa, for the most part. Mentally ill, too, you know. Illiteracy is one of their prime virtues or aspects of --

well, you know, virtues, that's about all they own having to do with anything like that, right, motherfucker? And you've just provided me with an outstanding little sample here, obviously. You can't even read your own fucking -- God-damned California fucking -- how stupid can you fucking mother get, you damn fucking pig. You don't know your code and you're causing people all this shit. Well, that case, you know, was -- they didn't -- they didn't understand what the hell it was about, you know, the writing there. And they're going to one of these hours, I'm -- I'm absolutely confident of it; nothing would ever change my mind that the posting, albeit rather stark, was nothing more than a form of political hyperbole; and the first amendment allowable -- I'm never going to say, protected; but I will have to conclude allowable, unfortunately -- and attribute this

19

whole rip-out of my life for these last couple of years. And it's been twenty-four/seven, giving me the shit end of all shit ends, causing me to enslave -- and I trade stocks. I had bought a six-thousand compute -- dollar computer just

before that happened, and it just started to learn to exactly make money at it. What happens? The Internet posting, you know. I'm ripped out for good. I haven't seen my computer since. I was making in the months -- six or seven months is all I ever saw of my trading, but was good; three trades a day in stocks, you know. Some days it would be five hundred; others, two hundred, you know. I was learning it and I knew I was learning. And that may be the ulterior --

MR. GIMBEL: Well, so where was I?

Yeah, ulterior. Why I was ripped out. Okay.

They said Internet posting, but it looked so harmless to me that I -- I get off on this -- this ideology. I don't know, it's just a little bit off on a tangent, obviously. And there's a question as to whether we proved that there is something ulterior there. It boils to God works in mysterious ways. And being the demon that He is, gunslingers are next to His heart. And you never know when you're going to get picked up like you lived in

21 Stalin's times, even here in shit America and blah-blah.
22 I -- I get off on that tangent. It's better to stick to
23 the proofs, I suppose; but one can think what one wants.
24 At any rate, ripped out since then. No trades,
25 not one fucking trade. Now, like, I was making a hundred

22
1 dollars a day for the six months previous to that. I
2 recall that from doing my taxes, okay. So I've been
3 deprived of all that for two years steady now. They
4 haven't returned my computers. I'll get to that in a
5 minute. It's -- it's -- it's so ironic. When you stop
6 and -- you know, I was in the 1979 Ford Fiesta. If I had
7 continued making the money like that, you know, I might
8 have been driving a new car, brake lights working fine and
9 never been stopped. Okay. Thank you. You're Murphy's Law
10 as well as a cockroach gunslinger now, too; but, you know,
11 that doesn't bother you because you're too egotistical to
12 be a -- to find a chink in your armor till -- until the day
13 of Armageddon when your -- your -- your chief accepts
14 Christ, walks up and shoots you in the head about fifty

15 thousand times. No, he wouldn't do that. Don't worry
16 about that. Yeah, so, anyway, ironic huh? Murphy's law
17 is -- is fucking up Gimbel day and night since he's been
18 ripped out.
19 It's even a lot worse than that, though. The
20 literacy component. You're proved illiterate, obviously
21 you are. And so are, you know, most goons, unfortunately,
22 mentally ill as well and -- what we've got here -- I was
23 going to point out, I went through this process on this
24 Internet posting. You know, it was a farce because the
25 attorneys, as they typically do, wouldn't let me do 23
1 anything. I was really -- I had that guy -- I could
2 have -- I (unintelligible) to him to a million different
3 things that he should have looked at at the trial. He
4 touched not a fucking one of them. I canned that guy so
5 hard and came back at him with a malpractice suit like I
6 just might hit you with something, too, there, you know --
7 you never know -- because he was such a fuckup. Like, he
8 was telling me at the -- just after the arrest, you know,
9 this would probably be a two-week trial. He's got all
10 these cherishable ideas, you know, that he's going to tell

jury and we're just going to be First Amendment; we're going to be free and clear. He gets to the trial. By that time, he's tired and I'm beaten to death -- browbeaten to death -- and attaining the ultimate gyp of the universe, and he decided he's too tired to do anything but a one-day blitz trial. And I --

MR. GIMBEL: So where was I? Yes. One-day blitz trial.

Okay. This -- this attorney was a -- a total idiot, you know, kind of a young guy. In fact -- yeah. Total idiot. Well -- and based on his idiocy, I guess, in part, you know, I don't blame him for anything -- the arrest and stuff like that. You have to realize an idiot doesn't do a lot of good when he's in -- when he's placed in charge and left at the helm for a year and a half. I don't even know how I let him go that -- I -- I was aware of his problems, you know, six months into it; and I kept hoping that he'd -- I could -- I could, you know, finally get him to realize some of the arguments and that that

cherishable two weeks of effort would go forth to the trial, knowing this fucker was an idiot. I -- I believe I also chewed him out once such that he probably had a case of spite and was trying -- trying to get me convicted, too. But, of course, I'm telling the wrong person all this right now. There's -- his name's Andy Stunich. Leave him alone. I'd rather see tapes wasted before that.

But -- yeah. So it ran the way it did, and I ended up with a conviction. But here's the point I want to bring to your attention about your fucking illiteracy. It's in an appeal now, and I'm going to get this fucker appealed on that one too. You guys are wrong. You're dead wrong. You're just wrong, wrong, wrong; and this civil suit that that comes back on that is going to be an infamous doozy that -- that will stick to you like glue and you'll never get rid of. I guarantee it.

Your illiteracy, however, in another component here is evinced in that I will, as I explain this -- what happened at the sentencing in connection with that Internet posting is the -- the sentencing minutes went forth, and

sentencing was October 27th, 2005. '05, yes, sir. The minutes became available shortly thereafter, and it showed (unintelligible) on them. The computers seized were -- the Judge -- it's the Judge mandate writing right in there "computers seized are to be returned to the Defendant on November 15th, 2005." '05, yes, sir. Now, it also says right next to that, "copies to the Sheriff's Department." Good. We have you down for another fucking case of illiteracy. I still haven't got them. At this point you just see what happens if you try to return them, you know. We are smell of illiteracy is beyond infinity, pigs; and just -- just beware of it, if you would.

Well, I think I did a little better than I thought I was going to do. It's -- it's -- my speaking, of course, is not good. I may pretty much conclude the civil things I had. There's a lot more out there about whys and wherefores, true, you know. I -- I undereat, and I've under eaten all my lifetime. And when a pig hits me I go 27 down awful hard, okay. That's the simplest way I've ever found. How do you tell people you never eat, you know?

3 Well, you know, when I smell a pig in his events -- and
4 then there's the snail. The snail quarks (sic), you know.

25 MR. GIMBEL: Well, Mr. Villareal, I think I've

28
1 said -- I was just cut off there again on the
2 answering-machine length, but I will concede at this point
3 that I've delivered somewhat of a brunt of the message I
4 intended to; though, of course, the river never seems to
5 end. There could be a lot more one could say as to what's
6 connected to what; and, believe me, it would show you as an
7 idiot for the fuckups that I have described and -- but I
8 think that will conclude it for now.
9 Thank you. Thank you for your attention.

29
20 MR. GIMBEL: Come to think of it, Mr. Villareal,
21 I think there is one more little thing here; and, actually,
22 it may not be that little.
23 People like to get things resolved that tend to
24 be rather burdensome as soon as they can. As I described
25 here in the short time I've allowed myself trying -- but

30

trying to be as thorough as I could, hopefully, that you'll get the gist of the extreme enslavements I have been put through in the Internet case and that other annoying influences can be very annoying if they're going in the direction that yours evince to, for example, I do want a resolution on this. And I will put this to you bluntly, that if I, based on everything I've told you and your obvious actionable tort, did not get an apology to the matter of the false detainment from you or a proper representative such as the Sheriff within, shall we say, three days, -- make it two, actually -- no, make it one -- in conjunction with that, as I explained, about the light-bulb thing -- you know, replacing a light bulb and everything -- take from me my good faith to -- up your fucking hillbilly ticket -- take from me my good faith that I will fix my lights and I will also agree to -- that at some point bring them to a designated station or a Highway Patrol office and show them that they work, okay. Quote, fix-it ticket, unquote. I guess I can do that for you, even though my health really bespeaks otherwise. And if

you don't apology (sic) and just what I mentioned, expect, minimally, a hundred-dollar -- a hundred-million-dollar lawsuit for false detainment.

And I will also add this, that you run the risk, even if you do, of that lawsuit. Come somewhat on your

knees and humbling yourself, if you would, yeah. That's right, shit mouth. I think we smelled enough of your time in my life. It's about time that you happy-go-spit gunslingers learn a little respect, not merely for the laws we're showing that you don't even know your own fucking law, you're fucking illiterate, stupid, dead motherfuckers in -- dead-head motherfuckers in regards to that law. At any rate, I make myself clear.

Good luck with your apology, dumb fucker.

MR. GIMBEL: You know, Villareal, there was one other little thing here. I hope I'm up to it. I'm probably not. Here, let's try it. My head's really gone, thanks to all this -- this shit I've been through these years and smelling this stuff come along here. And what's

his number -- oh, God. Excuse me. I forget things outright sometimes due to the -- the condition that's been instilled in me by armed thugs with badges in this place. Phew. I've got -- I've got to go think for a little -- wait. Oh, yeah.

In the same vein that I had just mentioned earlier -- my computers ripped out, Murphy's Law forward, I might have had a new car, never been stopped. Big deal. You know, I mean, it is a big deal, really. I put up with all that. I put up with another thing that I want to bring to your attention. And, by the way, quit hiding there. Get out from behind that -- that immunity shit that you're hiding behind, man (unintelligible) actionable tort, okay. Malfeasance, wrongful detainment. You're a had motherfucker civilly, if not criminally, in the wise (sic.) I wouldn't press for anything criminal as long as the civil was big enough to hold you in the same spot, you know; and then you can go out and do your dirty to other people. If I ever find my strength, I might, you know, monitor you a little bit in that matter.

At any rate, I also had ripped out, you know, everything I live for pretty much in and around my premises. Stocks trading. I did have some handguns. You know, I've never been in any trouble with them. I've had them there for fifteen years, sitting here, you know. Naturally, the piggies had to have those, and -- and they were gone for good. They hadn't been returned either, of course. So what I wanted to -- in continuing with mentioning that was simply to see if I could convey to you -- and believe me, I could -- could and I have done such before such things -- worked these kinds of fine points up in pleading paper, briefs and documents, official complaints that either, you know, go criminally or civilly. I've done my own attorney's work before, and I -- I do hire full-fledged attorneys to assist me in that matter, two hundred dollars an hour; and paralegals too. And -- and I've done it before; and, hopefully, I can do it again. And my health is really shit, thanks to you fucking piggies. And that -- oh, it was really nothing. Well, it's -- it's this psychological exposure to your -- your

illiteracy to the extent that you're like drunken thugs. It can be perceived in no other way, in conjunction with all I've been bearing. My life has been redirected to a case of enslavement to try to free myself from this -- this -- in the appeal and everything and this so-called

criminal Internet posting, you know. Enslaved. Rip out the other one, enslave the fucker to a keyboard somewhere, you know, is what you -- you guys did to me, you know. I'm sitting here bearing all this shit, you know.

MR. GIMBEL: So, anyway, I could work with this -- these observations up into an official complaint on -- on Court pleading paper that the -- the composite of all these rip-outs -- oh, gosh, where was I here.

Yeah. You're going about, like the day you stopped me there, a drunken illiterates to the extent that you're just gunslinger cockroaches kind of drunk without regard and really -- really doing the dirty, and I've described it previously. It's -- it's a massive impaction.

I'm ripped out completely, I'm enslaved to the keyboard and doing -- and bearing all this. Yeah, that's where I got cut off here. I was bearing all this stuff, you know. Enslavement to the case and ripped out, you know, and Murphy's law, all this, that and the other thing. And the impaction on the day when you guys come around there like illiterates like you did -- the two of you, no less, that are illiterate, evidently -- fully armed. My former attorney had brought to me the fine point in that Internet case, the civil suit, we can come back to you guys and charge you with assault and battery for merely arresting me if you're, you know, found -- merely the fact that you arrested me; you know, had several deputies lay hands on me and I acquiesced; and it was much to my doom, sir; broken shitless across the ears; life ripped out; redirected the trash that I can't stand without mercy; a court that's nothing but a fucking snail and cops and judges that I have

36

proved and shown specifically the evidentiary instances in which lies and (unintelligible) they don't even see any fucking (unintelligible).

Okay. Son one of these days somebody is going to wake up and realize just how bad this system has been. And I've tried to point it out, but I'm just being made a slave and a fool of the extent that I'm hoping I can sort that out somewhere. I'll keep fighting it for sure, but what I'm trying to bring to your attention, I'm not sure now, is that the impaction is huge. So -- yes, that's it. It's not a -- it's not a -- it's not an overreaction, threat of a hundred-million-dollar suit in this matter. Yes. And I have leveled you the alternatives. You either come with an apology and you take your risk on your -- on your humble -- on your knees about it as I described, that you --

(End of side one, tape one).

(Side two, tape one.)

MR. GIMBEL: -- on your humble -- on your knees about it as I described, that you take your risk at my option to whether I'm going to file that puppy or not. You know, that's what I think of you motherfuckers, and that's the way I'm going to continue to. But the amount -- that's -- that's the whole point I was trying to lead up to is the amount is not at all discordant with reality. The

25 impaction here is like you're Satan boy.

37

3 MR. GIMBEL: Ah, yes, there it is.

4 What I was -- part of what I was trying to lead

5 up to, the case of false detainment -- don't kid yourself

6 -- the same as assault and battery. That's right. You two

7 thugs have fucking up up there, your Satan boy.

8 This concludes the message to Frank Spank

9 Villa-shit-a-real on this May -- definitely a Sunday, close

10 to and about May 21st, 2006.

(END OF MAY 21, 2006)

*1 Transcription of tape two of two, entitled "May 29, 2006,*

*2 Extremely Short Follow-up of Main Speech:" Tape received at*

*3 Fitzgerald Depositions, 730 Seventh Street, Suite C,*

*4 Eureka, California, 95501; from John Gimbel 225 Brevus*

*5 Street, Crescent City, California, 95531, on or about*

*6 September 12, 2006. (ABOUT 97 WORDS ON MAY 29, 2006:)*

7 MR. GIMBEL: Shit-a-real, fuckup, we figured out

8 you had (unintelligible) the other day. You didn't know

9 your fucking face from a hole in the ground about

10 self-insurance. Hey, maybe it was because you're getting

11 old or something, fuckup; or, hey, maybe you were more

12 wacko than usual, huh; or more -- more of a moron than you

usually fucking are. You know, be sure to tell the Judge who the holdup man was about this fuckup, didn't know what self-insurance was, fucking damn thug. Go kill yourself, fucking damn thug. Save the Judge the trouble of having to.